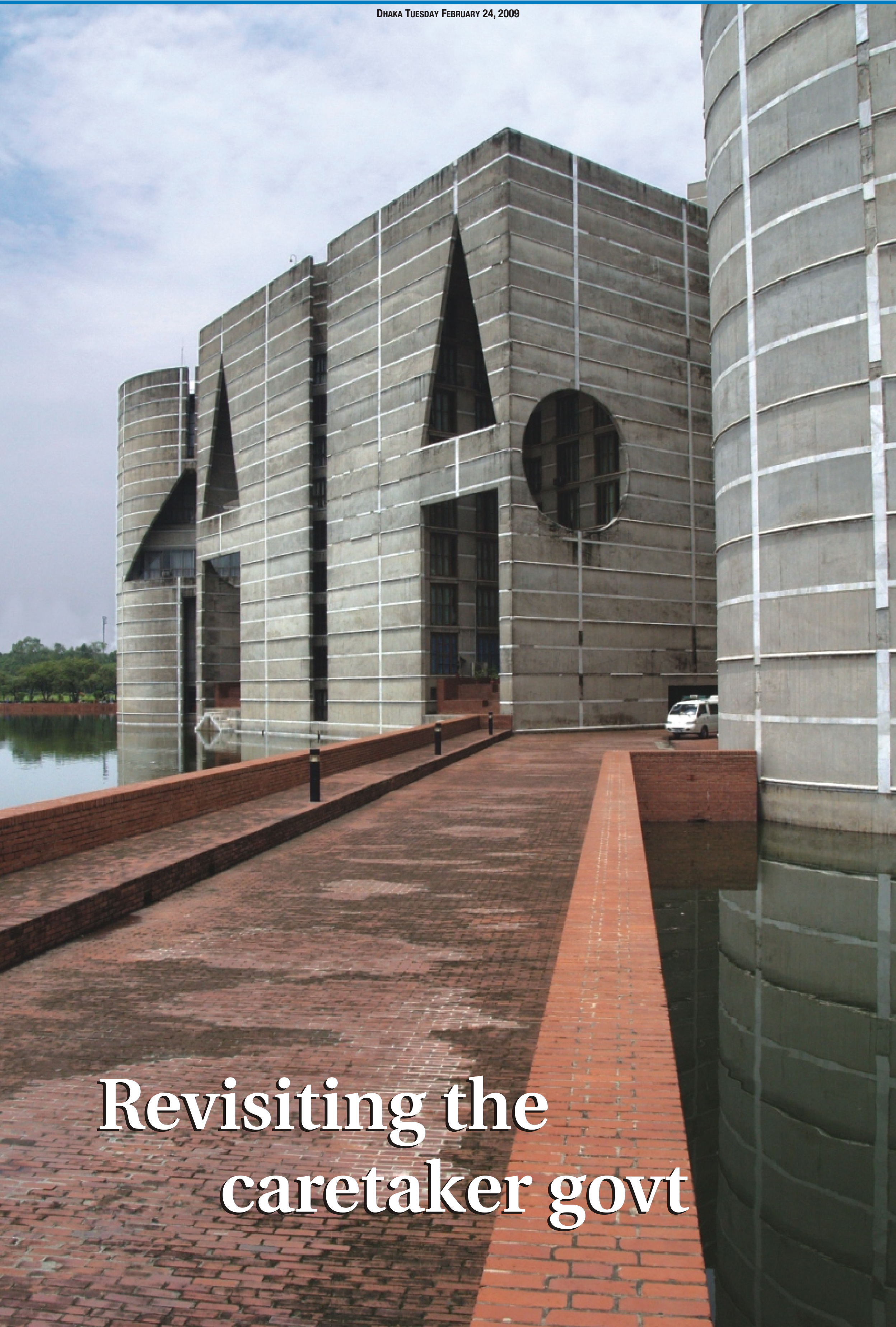


DHAKA TUESDAY FEBRUARY 24, 2009



# Revisiting the caretaker govt

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# The 'Caretakers' 2007-08: Performance and lessons



ROUNAQ JAHAN

THE peaceful handover of power by the military-backed 'Caretaker' government of Dr. Fakhruddin Ahmed to the democratically elected government of Sheikh Hasina on January 6, 2009 is unprecedented in South Asian history. For the first time, a de facto military government kept its promise of voluntarily giving up power to elected representatives within the time limit it set for itself. When the military

intervened once again in Bangladesh's politics on January 11, 2007 declaring a state of emergency, the new government pledged a return to a democratic government through organisation of a free and fair election within two years. Though this pledge was regularly repeated by the government, doubts were expressed by observers within and outside Bangladesh as to whether the military backers of the government would indeed keep to their promises and return to the barracks. After all such promises are

routinely made by a military government only to be broken on one pretext or another. A military government is generally forced out of power by a popular movement or by another military coup.

Pakistan's history is replete with such experiences of military rule including that of its last military dictator General Pervez Mosharraf. The voluntary, timely and honorable exit by the military backed government and its role in organising a free, fair and credible parliamentary elections on December 29, 2008 underscore the differences between Bangladesh and Pakistan. Not only is the military establishment different in the two countries, the military being less entrenched in Bangladesh, the relative strength of other institutions vis-à-vis the military is also different. In Bangladesh political parties and civil society are much stronger and they were not willing to accept an indefinite continuation of an unelected government. Indeed none of the major power groups including the military itself found it in their best corporate interest to prolong the involvement of the military in running the affairs of the state. What is, however, remarkable is that all power groups finally demonstrated an willingness to negotiate and make compromises in order to have a free and fair election so that the citizens can be the ultimate masters in deciding how they would like to be governed. The unprecedented high voter turn out - 87 percent - was a clear verdict of the people in favour of a rule by democratically elected government.

The credibility of the elections, enhanced the prestige of the military backed "caretaker" government (CTG), which was eroding fast as the CTG was making one mistake after another in pushing its other major agenda of political reforms. The "caretakers" repeatedly argued that they would not only hold an election but bring about a qualitative change in politics. The performance of the "caretakers", proved, once again, that an unelected caretaker government can at best organise free and fair elections; but implementation of political reforms need mobilisation

CONTINUED ON PAGE 6

*What lessons can the political parties, who have generally been critical of the "caretakers", draw from the last two years' experiences? Obviously, they need to think hard about the future of the caretaker (CTG) system. By being able to organise a credible and acceptable election, the "caretakers" demonstrated once again the positive role the CTG can play in our highly partisan political environment. But the problems with the CTG system, particularly the partisanisation of the judiciary, have also become apparent in the last few years. Political parties and civil society need to assess the caretaker system objectively in the light of our ground realities. We need to decide whether in the absence of trust among the political parties about the neutrality of an incumbent administration, we would need to continue with the caretaker system, and if so, what changes we would need to make to ensure the non-partisan character of the "Caretakers".*



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# The 'Caretakers'

FROM PAGE 4

of major constituency support and this can only be sustained when major political forces committed to such reforms, are engaged. An elected political government is thus, better suited to implement political reforms.

## Performance: Elections and Reforms

The “caretakers” took power with two publicly announced broad agendas: organisation of a free and fair parliamentary elections and implementation of governance and political reforms. Though the second agenda is not supposed to be a remit of the “caretakers”, it received their priority attention, but finally it was the successful conclusion of the first agenda that salvaged the reputation of the “caretakers”.

## Elections

Despite criticism from political parties and some elements in civil society that they were taking unnecessarily long time in organising the elections, the ‘caretakers’ should be given due credit for finally deliver-

down from its earlier versions, it did succeed in limiting the use of money and muscle power involved with electioneering. The elimination of violence and wasteful expenses associated with showdowns, color posters and wall writings seemed to be appreciated by ordinary voters who showed up on record numbers on election day without the enticement of those wasteful practices. Fourth, the ‘caretakers’ succeeded in ensuring the neutrality of administration and law enforcement agencies, which made the losing side’s complaint of election engineering look ridiculous. Fifth, law and order was maintained in the run up to the elections, and the election day and many observers noted that in many constituencies minority voters could exercise their voting rights for the first time free of fear and intimidation. Finally, the voting, vote counting and reporting were done through a transparent process and that helped establish the creditability of the electoral outcome.

Certainly more improvement can

and activists were imprisoned and tried under emergency rules, doubt and skepticism started to set in about the legality and sustainability of the anti-corruption drive. First, many jurists started expressing concerns as to what would happen to these cases once the emergency rule is withdrawn and the normal law of the land would prevail. This was particularly applicable in the denial of bail to those detained under emergency powers, since under the normal law of the land bail in such cases is generally admissible. Indeed only a few corruption cases were actually taken to trial before specially convened tribunals set up under emergency rules. All such cases at the lower courts invariably ended in a conviction of the accused. But as the elections of December 2008 neared, many of the political leaders arrested on corruption charges and previously denied bails were set free on bail by the higher judiciary and many were left free to participate in the elections. Even some of those convicted by the lower courts were permitted to con-

compromised the credibility of the anti-corruption drive. The credibility was further strained when the two leaders were released, and the two sons of Khaleda Zia, charged with more glaring acts of corruption, were released on bail and permitted to go abroad for medical treatment as part of a political deal to bring the BNP into the election. Thus, the initially popular anti-corruption drive lost its credibility. The manifest political use of the laws eroded the authority of the ACC. Once the upper courts tuned in to the message that the anti-corruption drive was to be used as a political resource, they took their own initiative, notwithstanding the emergency rules, to release virtually every detainee on bail, thereby undoing both law enforcement as well as the political impact of the anti-corruption drive.

The concomitant political agenda of party reforms became the primary casualty of the failed “Minus-2 strategy”, which was based on the false assumption that the so called “reformist” leaders within the two

tary backers who were the primary drivers of the government had been able to draw some lessons from their successes as well as failures.

Two major lessons about the military’s role stand out. First, the military can be used effectively to perform technical jobs which have specific job descriptions and time frame. The military performed exceedingly well in assisting the preparations of the voter IDs and national IDs as well as in maintaining law and order before and during the elections.

Second, the military is not well suited to perform open-ended political tasks such as reforming political parties and political processes. Such open-ended political involvement invariably makes the military controversial and hurt the military’s corporate interests. The military needs bipartisan support and needs to be insulated from the partisan contestations of the political arena.

What lessons can the political parties, who have generally been critical of the “caretakers”, draw from the last two years’ experiences?



ing on their core mandate of organising a free and fair parliamentary election. The task was not easy as the previous BNP led 4 party alliance government left an unacceptable Election Commission (EC) and a flawed voters’ list. There were also demands from civil society about a number of reforms to make the elections free from the influence of mastaans and black money.

The “caretakers” took a variety of steps to meet these challenges. First, they reorganised the EC staffing it with more credible and acceptable commissioners and other officials and made the EC more autonomous. Second, they prepared a more acceptable and credible voters’ list of 81 million voters discarding 12.7 million ghost/fake voters from the previous list. The preparation of the voters’ list created some controversies, for example, whether to simply go for a voters’ list with a photo ID or to simultaneously go for a national ID card. However, the final outcome was universally acclaimed. Third, though the final RPO was a come

be made in the future but the “caretakers” should be lauded for laying the foundations of various processes that are essential for organising a free and fair election.

## Reforms

The “caretakers” performance in implementing governance and political reforms was rather more controversial and open to contestations. The agenda unfolded in various ways pushed by different agencies and mechanisms of the government, sometime without coordination and adequate preparation. Two much talked about reform initiatives were the anti-corruption drive, and the so called “Minus-2 strategy”. Both in fact became intertwined and compounded problems for the “caretakers”.

When the “caretakers” first initiated the anti-corruption drive it was well received. The reconstitution of the Anti-Corruption Commission (ACC) was appreciated. But as hundreds of political leaders

test in the elections. The future of all the corruption cases after the withdrawal of the state of emergency thus appeared to be uncertain.

Second, the anti-corruption drive became even more contested when it was conflated with the so called “Minus-2 strategy”, which sought to remove the two long standing leaders of the two major political parties, the Awami League (Sheikh Hasina) and the BNP (Khaleda Zia) from politics, on the belief that these two leaders were the main obstacles blocking democratisation of party politics. The “caretakers” initially sought to persuade the two leaders to voluntarily go into exile. When this approach failed, they filed anti-corruption cases against the two leaders on the assumption that if they were convicted, they would be disqualified from participating in the elections and also would stand politically discredited.

This attempt to use the anti-corruption laws to serve a manifestly political purpose, proved to be not only politically unpopular but

mainstream parties could mobilise support within their respective parties to challenge the two supreme leaders and support the government’s reform agenda. But these “reformists” proved to be ineffective in challenging the two dynastic leaders and the rank and file members of the two parties remained loyal to Sheikh Hasina and Khaleda Zia. The “caretakers” then had to come to terms with the reality that democratic reforms could not be engineered from outside the political system. As pressures built up from within and outside the country on the regime to deliver on its principal agenda to organise free, fair and credible elections, the ‘caretakers’ had to put their reform agenda on the back burner and focus on the elections

## Lessons

An noted earlier the successful implementation of the election agenda had paid rich dividends for the ‘caretakers’. It is hoped that the ‘caretakers’, particularly the mili-

Obviously, they need to think hard about the future of the caretaker (CTG) system. By being able to organise a credible and acceptable election, the “caretakers” demonstrated once again the positive role the CTG can play in our highly partisan political environment. But the problems with the CTG system, particularly the partisanisation of the judiciary, have also become apparent in the last few years. Political parties and civil society need to assess the caretaker system objectively in the light of our ground realities. We need to decide whether in the absence of trust among the political parties about the neutrality of an incumbent administration, we would need to continue with the caretaker system, and if so, what changes we would need to make to ensure the non-partisan character of the “caretakers”.

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# The reality reforms

DR. MIZANUR RAHMAN SHELLEY

A caretaker government unlike any of its predecessors stepped in for an unprecedented two-year tenure on January 12, 2007. That long pause has ended with the resumption of parliamentary democracy following the peaceful national elections on the 29th of December 2008. The caretaker government tried its hands in the difficult field of reforms.

The dramatic events which led to the reconstituted caretaker government raised high expectations for political, economic, social and administrative changes in the country. The new transitional government backed by the armed forces, promised widespread and far-

It is a demanding process and successful reformist leadership is relatively rare. The life and work of Mustafa Kemal Ataturk, founder of the modern, secular Turkish state, symbolise an eminently successful effort at reform. During more recent times Prime Minister Mahathir Mohammad of Malaysia and Deng Shiao Ping of people's China provided excellent examples of successful reformist leadership.

Reformist statesmen provide visionary leadership. They set out with clear and transparent resolve to implement their missions. Successful reformers seem to realise the significance of the truth expressed in the Holy Bible. The prayer is to God Almighty to give one "the serenity to accept the things (one)

face greater problems in responding to the inexorable demands of politics without support of politically organized forces. Meeting the challenges of political and economic governance becomes more difficult in their case.

All this was writ large in the predicament of the transitional government produced by the events of 11th and 12th January 2007. Its unique character was forged by unprecedented circumstances. In essence, it no more remained a caretaker government as stipulated in the constitution.

On the other hand, though backed by the armed forces, it did not become a military government. In substance, it assumed the form of a half way house the like of which the country did not see

unfettered operation of the political parties. Besides, the massive anticorruption drive led to the detention of many important political leaders along with some high officials and prominent businessmen on charges of alleged corruption. Attempts at implementing the so called "minus two formula" also resulted in the arrest of the top leaders of two principal political parties both of whom were former Prime Ministers. Endeavours to effect reforms of political parties with the help of reformist leadership in various political camps also proved ineffective. Political parties were kept in a state of suspended animation. The government, because of its very nature as a neutral and non-political entity, could

much of the reforms proposed and initiated by the interim government have taken roots and will be sustained?

The separation of the lower judiciary from the executive, reforms for democratisation of political parties and some measures to ensure healthy elections free of influence of money and muscle seem to have been generally accepted by the major political forces.

Reforms for strengthening of the local government system in accordance with the recommendations of the local government committee also appear to have wide acceptance. One of the consequences is the staging of upazila polls after a gap of nearly eighteen years. By contrast, not much has been done in the field of administrative reforms. Constitutional bodies such as the Election Commission, the Anti Corruption Commission and the Public Service Commission were reconstituted immediately after the advent of the interim government. Reform of these entities did not seem to have been on the agenda. Doubts still linger in the minds of the people as to the long-term impact of ambitious anti corruption drive. All told, it appears that the transitional government's record of sustainable reform is one of mixed partial success and greater failure.

The causes of its lack of success lay in the ineffective strategy which failed to appreciate and use political force in support of the reform programmes. The responsibilities of cleansing politics, the election process and administration need sound political support-base for success. The interim government in effect failed to mobilise support of existing political forces behind its reform agenda. This could be done only by reaching a consensus on the reform measures. The Election Commission went ahead with efforts to seek and realise such a consensus with regard to the process of elections at various levels. In some measure it did achieve success. But how far these will be sustained in the future is another question.

The transitional government's reform attempts suffered from the inadequacies of a non-political and non-elected government. Its endeavours in this field were handicapped by its distance from politics. Political processes are the engines of communication between the rulers and the ruled. These are the propellers of mobilising the support of the entire society for meaningful, desirable and sustainable reforms.

The transitional government of Bangladesh remained unable to comprehend this reality. Good intentions are not enough. Sound and successful politics alone can secure desirable and enduring reforms.

Now there is an elected government ruling Bangladesh. Its presence creates a strong basis of hope. Given the will the Awami League-led 'Mohajote' government can initiate and implement enduring reforms. Its massive victory in the national polls has given it a very sound and strong basis of popular support. The visionary manifesto of the Awami League may act as the starting point and framework for desirable reforms that will endure. It is interesting to note that the new government has reflected the national eagerness to reform and improve the quality of politics and political leadership. The new cabinet of Prime Minister Sheikh Hasina, by and large, consists of persons with clean record and image. Moreover, the Prime Minister and her government in their avowed resolve to unite the nation, give the opposition its due respect and role within and outside the parliament and continue the anti-corruption drive loyally reflects the national mood for following the correct path to politico-economic development. The unfolding scenario seems to indicate that the reform efforts of the transitional government did not entirely go in vain. The need of the hour is the will and determination of the newly elected government to continue this process of political, economic and administrative reforms which will speedily realise the dream of a thriving and digital Bangladesh.

Dr. Mizanur Rahman Shelley, a noted thinker and social scientist, is the founder Chairman, Centre for Development Research, Bangladesh (CDRB) and Editor, quarterly 'Asian Affairs'.



reaching reforms in politics, electoral processes and economy. It also mounted a massive anticorruption campaign through the reconstituted independent Anti Corruption Commission (ACC). All these appeared to hold out prospects for revolutionary change through reforms effected by a non-political government that was not elected. Efforts to combine the two, reform and revolution, faced built-in challenges. These are distinct and different processes which can rarely be rolled into one.

Revolution causes sudden and often basic changes in the values and systems of the concerned society. It is occasioned by both objective factors and determined action of organised political groups. It is also accompanied by violence on different scales. Though it is perceived as a sudden change it is preceded by gradual preparations over a long period of time. Aptly has it been remarked, "Revolutions rarely occur suddenly and never by chance." This is true of all major revolutions such as the French Revolution of 1789, the Bolshevik Revolution in Czarist Russia in 1917 and the Communist Revolution in China under the leadership of Mao Tse-Tung in 1949. More recently in 1979, the revolution in Iran under the leadership of Ayatullah Ruhullah Khomeini dethroned the imperial regime of Reza Shah Pahlevi and set up an Islamic republic.

By contrast, reform is a peaceful process which makes exacting demands on the leadership seeking transformation. Reform does not attempt a wholesale dismantling of the existing socio-political and economic order. Reform is gradual, orderly, discrete but purposively integrated. It is more difficult than revolution but can bring gradual and orderly change. Reformist leaders do not break up existing structures and systems. They work in a planned and systematic manner to bring change where it is needed. The movements take place step by step and relate to specific segments of the society,

cannot change, the courage to change the things (one) can and the wisdom to know the difference'.

Reformist leaders carry on their work in accordance with realistic strategies. These are formulated and implemented in tune with their specific socio-political situations. Thus, Kemal Ataturk devised and followed an effective strategy of isolating the forces resisting reforms. It is said of him: "Those whom the Gazi destroys he first isolates".

Reformist leaders use politics to achieve their goals. They fully exploit the political support they enjoy in the cause of enduring reforms. Reform is hardly possible without a sound base of political support. Popular and elected governments are the best and most effective instruments of sustainable political, social and economic reforms. This lesson seems to have been learnt anew by Bangladesh during nearly two years of the Caretaker government.

That abiding lesson is indivisible from life lived in politically organised societies which we call States. Governments are the instruments that conduct the affairs of the State. Notwithstanding the form, governments are inseparable from the all-pervasive political process.

Politics do not mean only elections, party activities or political campaigns. Articulation and aggregation of group-specific interests of social forces form the core of political processes. This requires handling the process of interest aggregation with practical knowledge, foresight and skill. The exacting demands of politics challenge all governments, elected or not. It also does not matter whether the government has a fixed tenure or an interim mandate. The only difference is that elective political Governments have the necessary apparatus at their disposal which a non-elected one does not have. Elected governments are assisted and supported by their parties in the acquisition and exercise of state power. Non-elected governments do not have such instruments at their command. In consequence, they

before. Putting off the national elections scheduled for the 22nd of January 2007 was the least of its tasks. It had to defer that election indefinitely in the context of intense political confrontations exploding in violence on the streets.

The situation existing at its inception seemed to compel the government to get on the track of massive and widespread reforms. Its leaders avowedly assumed the responsibility of cleansing a veritable Augean stable of polluted politics, malgovernance and unprecedented politicisation of vital state institutions and pervasive corruption especially at the higher echelons of the society.

The need to meet such onerous challenges caused the government to assume greater responsibilities than were required of a caretaker government. The caretaker governments of 1996 and 2001 had easier tasks to be performed according to constitutional provisions: to hold national elections within the constitutionally stipulated ninety days and only conduct day to day routine activities. By contrast, the interim government led by Acting President Chief justice Shabuddin Ahmed in 1990-91 was substantively, though not constitutionally, a 'Caretaker government'. It is true that it had to face historic responsibilities of changing the political system. However, it was greatly supported by national consensus as reflected in the viewpoints and actions of the major political parties.

The government in office from the 12th January 2007 to 6th January 2009 confronted an all-together different challenge. Its responsibilities were as significant as those of the interim government of Justice Shabuddin. The obstacles on its way were more complex and difficult. National consensus on fundamental political issues that assisted the work of the Shabuddin government was present in the case of the government of Dr. Fakhruddin Ahmed only in an implicit manner. The state of emergency suspended the

not create a political force to support its reform agenda. In consequence, it remained unable to organise and mobilise overt peoples support for its program of reforms in politics.

The acquiescence of the people in the avowed well-intentioned reform and anti-corruption campaigns of the government created a popular support-base, however, unstructured and amorphous. Nevertheless, clinical and administrative response to problems which were basically political, did not provide effective solutions. Adverse politico-social and economic developments led to further erosion of the support base. Excessively technocratic and administrative leadership remained unable to adopt effective measures to reduce economic sufferings of the people. Shrinking scope of employment and income generation both in the public and private sectors, waning business opportunities and slowdown of economic development greatly reduced the purchasing power of common men. Global crises in food supply, unprecedented increase in the prices of fuel, seriously affected the national economy. In more recent times the global economic recession also held out grim prospects for the nation struggling against poverty.

These negative economic developments coupled with indecisive, inadequate and weak management led to renewed restlessness in politics. Different segments of the society such as organised industrial labour and politically motivated students communities took to frequent and increasingly strong agitations despite the state of emergency.

In response to the increasing complexities the transitional government chose the pragmatic way out: softness in dealing with political leaders and parties. Both the top political leaders were freed from their captivity and triumphantly continued to lead their parties.

The political process is back in force and democracy has returned.

The question is how many and how

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# Key strategic failures of CTG



SYED MUNIR KHASRU

THE last caretaker government probably will continue to be one of the most talked about CTGs for some time to come. The CTG has had its fair share of successes, the two most significant being preparation of a flawless voter list and the holding of a free and fair national election. There have been numerous write-ups on the performance of CTG both positive and negative. This article will focus on some of the key strategic failures of the CTG. It means to have an analytical look at the failure of strategy, even when the objectives may have been positive. Intention is to share insights into some of the major issues where the CTG had either poorly conceived or no strategy at all.

## Minus two without plus one

The much-talked about theory of Minus Two from the beginning had no clearly defined attainable target. If Minus Two was to be a viable theory, then the inevitable question that should have been resolved first was who would be the Plus One to fill the vacuum. The only option that briefly surfaced was Noble Laureate Professor Yunus who came and left the centre stage apparently unprepared and lacking definite strategy. Then was the floating theory of the so called "King's Party" which neither had any substance nor had any credible presence in the political scenario. The end result was desperation of CTG to revive the Plus Two as they themselves could not be the 'Plus One.' This strategic mistake proved to be costly as searching in the wilderness ultimately led to nowhere and eroded the credibility of CTG.

## Reform-anti-reform

The unleashing of "Pro-Reformists" in both the major political parties in the early days and opposition to the same by the core party loyalists led to a fluid situation. There was neither a well defined strategy to organise the reformists under some form of common platform nor was there a clearly defined objective of the reformists. Other than pronouncing some well intended thoughts on democratising the political parties and promoting good governance, there was no concrete plan of action as to who would be doing what to serve what purposes and for whom. There was a perception that the reformists were activated by non-political

*With economy underperforming, reform weakening, anti-corruption drive losing steam, and politicians raring to assert CTG started retreating from early 2008. More and more it started appearing defensive and gradually gave away the field to the politicians who were the actual players in the national election the CTG was firmly committed to be holding anyway. Had there been a well crafted exit strategy when the entry was made, then the CTG would not have had to sweat so much at the end. It also could have avoided spending disproportionate amount of time, energy, and resources on some misconceived pursuits.*

forces which did not help their cause with the grass root leaders and workers. Reformists were either sidelined from the mainstream or in worst cases, directly attacked by the loyalist supporters. With dilution of the Minus Two formula, the botched reformist agenda fizzled out.

## Anti-corruption campaign

While the anti-corruption drive had popular support, the methods to prosecute the accused were rather hurried, arbitrary, and lacking the required solid legal basis for sustenance of the cases even after the emergency would have been withdrawn. Strategy should have been to follow regular legal procedures and utilise unfettered access to information and evidence to make the proceedings air-tight and compliant. There was utter failure of recognition that this hurried stop-gap measures would have weak legal basis if challenged under prevailing laws under normal circumstances. With the country moving towards election mode, ACC started losing not only tempo but also the moral high ground with release of accused at an abnormal pace. At the end, it looked more like a game of political compromises at the expense of due diligence.

## Duality of administration

While officially 1/11 was labelled as an "Army backed CTG", the wide perception was that it was the army that was calling the major shots. Particularly, the Minus Two Theory, jailing of the two former PMs, high profile politicians, and businessmen were perceived as being impossible without Army's direct role. Hence, this spectre of a government within a government led to a dual-

ity of authority, no matter how much true or perceived. The CTG could have sent a single message to the people by keeping the role of the armed forces absolutely restricted to law and order. Public appearances of the Army Chief and some of the comments, no matter how benignly intended, left room for political interpretations or misinterpretations which were not helping any notion of unitary chain of command of the CTG. Particularly, administrative functionaries lost courage and drive due to the shadowy presence of an undefined authority. As time progressed, the administration became more reactive than pro-active. This explains poor ADP implementation at a time when the reverse should have been true as bureaucrats are supposed to be functioning optimally when there is least political intervention.

## It's the economy, stupid

In spite of the splendid victory in the Gulf War, when President George Bush Senior lost to Bill Clinton in 1992, the reason cited to the Republicans was "It's the Economy, Stupid" meaning, that even when there is a Commander in Chief who has won a war, in people's mind nothing is more important than their economic well being. Not to pay adequate attention to possible economic effects of anti-corruption drives and reforms, was one of the biggest strategic blunders that haunted the CTG till its last day of office. Closing of godowns, freezing of accounts, and acts of intimidations unnerved the business community, no matter how ethical or unethical businessmen may have been in their conduct over the years. It was

unrealistic to expect that a business culture where greed, corruption, and poor ethics have been dominant for decades could be changed overnight through drastic measures. The needed strategic balance between sending the right signal while actively initiating confidence building measures was missing from the beginning. Neither the Finance nor the Commerce Ministry had any vision or plan to address this in coordination with the enforcers i.e. Home Ministry or the Joint Forces.

Hence investment was shrinking as businessmen became hesitant. To compound things further to the disadvantage of the CTG was the Sidr and global developments which had negative local socio-economic effects rising prices of food and energy. With ordinary people struggling to meet minimum regular expenditure, issues like anti-corruption and reforms took a back seat and the CTG was weakened further.

## Poor media and PR strategy

One of the key strategic areas where the CTG performed miserably was Media and Public Relations. Both the Information Ministry and CA's office had no well defined plans to take people into confidence on the measures they were undertaking. No mechanism was in place to pro-actively counter some of the misperceptions, misinterpretations, and poor information that were going round. A road show was organised which lacked professional acumen to make it appealing to the people. Achievements of CTG were not effectively communicated to the masses in a manner that was credible and would provoke interest.

In an age where both the print and electronic media have become powerful tools for shaping public opinion, the CTG hardly paid any importance on the need to have a well formulated Media and PR strategy. Hence many bold reform measures and praiseworthy initiatives were undervalued in absence of a well trained marketing team while the negatives got boost from the unfettered attack of the politicians who are well trained in this job. To make things worse, some of the Advisers were talking needlessly and frivolously much to the annoyance of people. If the CTG had an effective media strategy, it could have come out much better at the end and looked less vulnerable and desperate.

## Exit strategy

Desperation of CTG became much talked about under the caption, "Exit Strategy". With economy underperforming, reform weakening, anti-corruption drive losing steam, and politicians rearing to assert CTG started retreating from early 2008. More and more it started appearing defensive and gradually gave away the field to the politicians who were the actual players in the national election the CTG was firmly committed to be holding anyway. Had there been a well crafted exit strategy when the entry was made, then the CTG would not have had to sweat so much at the end. It also could have avoided spending disproportionate amount of time, energy, and resources on some misconceived pursuits.

A good strategy is developed sooner than later and not in the midway when the ball already had started rolling. By making a wrong combination of mix and match of widely divergent issues political reform, leadership, economic management, anti-corruption drive, and of course elections there was very little scope to have an intelligent and pragmatic strategy that would have achieved both a good elections and a reformed governance structure put in place by the longest serving CTG. While the CTG may have passed on the elections test how well it did on the reform agenda only time will tell and history will judge. Strategically, the CTG could have been much smarter and savvy than what it did.

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DHAKA TUESDAY FEBRUARY 24, 2009



# Fakhruddin government: A chronicle

BARRISTER HARUN UR RASHID

**T**HE non-party caretaker government led by Dr. Fakhruddin Ahmed took over on January 12 2007 and continued until the evening of 6th January 2009 when Sheikh Hasina was sworn in as Prime Minister by the President.

#### Why the caretaker government?

In 1996 the unique mechanism of non-party caretaker government was introduced by amending the constitution. The genesis of the system was based on suspicion that ruling political governments would not be able to hold free and fair parliamentary election.

In 1996, the amendments were incorporated in the Chapter IIA of the constitution. The provisions of the amendments (Articles 58B, 58C, 58D and 58E) could have been drafted with more exactness and some of the imprecise provisions relating to system of the caretaker government have been often open to various interpretations and have come into conflict with other provisions of the constitution.

For example, under Article 123(3), a general election of members of parliament would be held “within ninety days” after parliament is dissolved but Article 58B which deals with the tenure of the caretaker government has not been linked with Article 123(3) that provides time-table for holding general parliamentary election.

Article 58B provides that the duration of the interim government would continue till the “date on which a new Prime Minister enters upon” his/her office after the constitution of parliament. There is no timeframe built into

Article 58B for the duration of the caretaker government. Thus the duration of the interim government has arguably been left open-ended while there is a provision that requires parliamentary election to be held within ninety days.

The tenure of four-party coalition government led by BNP expired on October 28, 2006 and a caretaker government led by President Dr. Iajuddin Ahmed was installed. The general election for the parliament was scheduled to be held on January 22, 2007.

However, confrontational politics between the major political parties that spilled on to the street led to a situation in which the President declared emergency on 11th January, 2007 in terms of Article 141A of the Constitution and called armed forces in aid of civil authorities to maintain law and order. Following this, the President announced his resignation from the post of the Chief Adviser and dissolved his team of Advisers of the caretaker government.

On 12th January, the President appointed a new caretaker government headed by Dr. Fakhruddin Ahmed as the Chief Adviser. The media called the Fakhruddin caretaker government an “army-backed government”, probably because it had been speculated in the media that armed forces urged President Dr. Iajuddin Ahmed to resign from the post of Chief Adviser for the sake of national interest and appoint Dr. Fakhruddin Ahmed as the Chief Adviser under Article 58C (5) of the Constitution.

Some legal experts raised the constitutional validity of the appointment of Dr. Fakhruddin Ahmed as the

Chief Adviser as the President skipped sub-clause (4) of Article 58C to appoint retired Chief Justices, available in the country. On the other hand, some legal experts justified the action of the President, given the circumstances on 11th January, to appoint Dr. Fakhruddin Ahmed.

The Fakhruddin government continued almost two years in power and did not feel bound by Article 123(3) to hold the election in 90 days, due to vagueness of the provisions of the constitution. It was argued that in order to hold a fair, free and impartial election, they needed a fresh voters' list and certain amendments to the Representation of the People Order 1972 that would guide the procedure of holding fair and credible parliamentary elections.

#### Policy of the caretaker government

People accepted the Fakhruddin government for the sake of peace and stability in the country. Besides providing assistance to the Election Commission to hold parliamentary

elections, the caretaker government adopted a three “Ms” policy, meaning that they would direct its campaign to eliminate muscle power, money power and misuse of power, thus creating a suitable environment for holding credible parliamentary elections.

The caretaker government demonstrated its efforts as far as possible against corrupt and criminal elements in society with the active assistance of armed forces and law enforcing agencies.

Persons who once were considered themselves “untouchable” were arrested for alleged corruption. Suspected corrupt former ministers, businessmen, former MPs and musclemen were arrested and put on trial.

Observers say that the government took a huge political risk when former Prime Minister Sheikh Hasina was arrested on 16th July 2007 on charges of extortion and corruption. On 3rd September, 2007, her political rival the immediate-past lady Prime Minister Begum Khaleda Zia was arrested on charges of corruption and

misuse of power.

The two former Prime Ministers were detained in houses, declared as sub-jail, on the premises of the Parliament building. The legality of their arrest on different charges is being contested in the Supreme Court.

About 160 politicians and businessmen including two sons of Begum Khaleda Zia were put behind the bar at one stage, awaiting trial for allegation of corruption, tax evasion and extortion. A few of them have been found guilty and sentenced to long-term imprisonments.

Since then almost all politicians and business men have been out of the custody on bail by the courts and many of the cases have been stayed by the High Court on the questions of legality and jurisdiction.

#### The achievements of the government

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*The ultimate achievement of the caretaker government has been holding of a fair, free and impartial election through the Election Commission on December 29th and the smooth transition of power to the elected government headed by Prime Minister Sheikh Hasina on January 6th 2009. The government may be credited for providing strong support all the way to the Election Commission to prepare a fresh voters' list. With the assistance of armed forces, the preparation of the voters' list by the Election Commission was a groundbreaking exercise and more than 81 million voters were registered with photographs and finger prints within 11 months.*



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# Fakhruddin government



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through the Election Commission on December 29th and the smooth transition of power to the elected government headed by Prime Minister Sheikh Hasina on January 6th 2009. The government may be credited for providing strong support all the way to the Election Commission to prepare a fresh voters' list. With the assistance of armed forces, the preparation of the voters' list by the Election Commission was a groundbreaking exercise and more than 81 million voters were registered with photographs and finger prints within 11 months.

The general election took place in an environment that international election observers found comparable with that prevalent in mature democracies.

The government also extensively amended the Representation of the People Order 1972 making the registration of political parties mandatory and compelling candidates of elections to disclose his/her income and expenses, educational qualifications, and other personal details so that voters know who they are and what are their backgrounds. Such disclosure before the election has been consistent with efforts to strengthen democracy in the country and the government could take credit for it.

After a lapse of 18 years, the interim government, despite initial objections by major parties, instructed the Election Commission to hold the elections of the Upazilla that took place on 22nd January, 2009. The interim government must be given credit for this.

The government strengthened the state institutions with re-constitution of the Public Service Commission, the Anti-Corruption Commission, and the Election Commission with members of competence and probity.

The separation of judiciary from the executive has been implemented since 1st November 2007 with the approval of the Supreme Court. Judicial commission was set up to nominate judges to the Supreme Court. In 2008, the National Human Rights Commission was set up and the Right to Information was given a legal cover.

Chittagong port and its Customs office were streamlined and some functions were computerised to reduce

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corruption. Bureaucracy including the police force had been re-shuffled on the basis of merit, not on party affiliations.

The interim government managed to import food items to fill in the deficit of about 18 lakh metric tons, despite export bans on food grains by many countries and high prices. It also handled ably the adverse consequences of the two floods and cyclone Sidr in 2007.

With the extensive support of the caretaker government, the farmers had produced record bumper boro, aman and aus rice crops amounting to 30.3 million metric tonnes (3 crore and 30 lakhs metric tonnes). By December 2008, the government had left stock of 1.3 million (13 lakhs) metric tonnes of foodgrains in the storages.

On energy the interim government was able to increase 400 MW of power and by the summer of 2009, it is estimated that another additional 600 MW will be produced.

The government was able to reduce inflation from 10% to 6.2% percent by the time it had relinquished its power to the elected government largely because of falling international prices.

The interim government ratified the 2003 UN Convention Against Corruption. In the past, Bangladesh regrettably shied away from signing the Convention, although Transparency International put Bangladesh on top of the lists of corrupt countries for a number of years.

The interim government could bring back Tk.1,219 crore (more than \$ 1 billion) from abroad from graft suspects and deposit the same in the national coffer, partly by virtue of the ratification of the UN Corruption Convention.

Besides all these, the overarching credit the caretaker government may

take is that it has brought some fiscal discipline, accountability and transparency in running the country. This will, in my view, hopefully have a long-term impact on the elected governments in governing the country in future.

#### Failures of the government

The caretaker government started with an over-ambitious agenda and half the way it lost focus because it wanted to "put its finger" on everything. Such approach was neither doable nor practicable. The list of agenda was too extensive and therefore could not be sustained. They did not seem to prioritise and limit their agenda to the transitional nature of its tenure.

From the very beginning an unnecessary fear was instilled in the minds of poor people. For instance, ejection of hawkers from the pavements, demolition of slums in the cities without any provision for alternative plans for the victims as well as knocking down of corner shops in towns and rural areas for breach of construction rules were perceived as an inducement of fear among the poor. It led the self-employed people in the urban and rural areas to unemployment and misery. Much criticism was levelled against the government for these unwarranted actions by Human Rights activists.

In anti-corruption area, the government cast its net far and wide. Whereas they could have pursued the glaring instances of wealth accumulation and identified the sources of income of only high-profile suspected corrupt persons and given directions to the Anti-Corruption Commission (ACC) accordingly. Some say that care-taker government's action through ACC against suspected corrupt individuals could be termed as "justice hastened is justice

denied".

In many cases, the procedure of the Anti-Corruption Commission (ACC) to lodge cases (total number of cases lodged 1, 200 including 300 cases against politicians and businessmen) in the courts under the emergency provisions could not eventually stand in the superior courts. This had provided an impression of naivety, inefficiency and lack of rigorous legal supervision.

There is a view that the Truth Commission should have been set up at the early stage of its rule and the Commission could not do its job at the fag end of the caretaker government. This demonstrated lack of clarity in the government's thinking as to how to approach the issue of clemency.

There were allegations of high-handedness and denial of due process to individuals, politicians and businessmen by some human rights organisations against the interim government. For example, arrest of academics and students following the August 2007 incidents in the Dhaka University, and harsh actions against some businessmen that led them to halt imports for sometime were perceived as bad approaches to dealing with given situations marking a decline in popularity of the caretaker government.

The interim government faced strong criticisms for high prices of basic commodities and although some reasons for the increase were beyond its control, people perceived that the caretaker government had failed to meet their basic necessities. Poor people were victims of the price rise and as a result the poverty level rose.

The Centre for Policy Dialogue (CPD), a private think-tank, estimated that due to income erosion, an additional 8.5 percent people had fallen

below the poverty line between January 2007 and March 2008, putting 25 lakh households below the poverty line. The CPD also observed that during the 15-month period of the care-taker rule, the gross income of poor people decreased by 36.7 percent, mainly due to price hike of food and inflationary pressure.

There was strong criticism against prolonging the emergency rule in the country. Human rights organizations accused the government of denying some fundamental rights to its citizens for a period that was unnecessary. Only on 17 December 2008 it was lifted.

Although media was seen to be free, often press advice or informal instructions would be given to the media, particularly the electronic media. The leaders of the media including editors had performed their job well by being critical to some of the actions taken by the interim government. The media held the interim government in check, so to speak.

Some alleged that the caretaker government had gone beyond their boundaries set by the Constitution. They promulgated 120 ordinances covering different areas.

Many of their decisions and actions were challenged at the Supreme Court by lawyers, and in many cases, they obtained relief from the courts, to the deep embarrassment of the caretaker government.

#### Summation

The bottom line is that the care taker government is not an elected government and therefore it has limitations to govern and after a certain period of time it loses its appeal and its utility erodes. Acceptance of the Fakhruddin caretaker government wore thin with the public as the days went by. People impatient with continuing political vacuum, eagerly looked forward to an elected government.

The holding of a free, fair and credible general election on December 29th is the high water mark of the Fakhruddin government while its low score relates to addressing effectively the corruption issue as well as the prolongation of emergency rule.

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